IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 9448 of 2005

Between:

G.Bhupal S/o.G.Rama Govindu
35 R/o.H.No.39/24, Park Road
Kurnool, Kurnool District.

..... PETITIONER

AND

1 The Regional Manager APSRTC Kurnool Region,

Kurnool District.
2 The Depot Manager, APSRTC Pathikonda Bus Depot,

Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue writ order or direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings No.E1/1 (16)/2000-PTKD dt.26.3.2002 in deleting the petitioners name from the selected list as illegal, unjust amounts to an act of victimization and unfair labour practice and also violative of Article 14,16 and 21 of Constitution of India and consequently set aside the proceedings No.E1/1(16)/2000-PTKD Dt.26.3.2002 issued by the 2nd respondent by reinstating the petitioner into service with all consequential benefits and pass such other order or orders.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 and 2: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the stage of admission made the following:

ORDER:

Challenging the action of the 2nd respondent in deleting the name of the petitioner from the selection list through proceedings dated 26.03.2002, the present writ petition is filed.

The petitioner worked as a Driver in the respondent Corporation. He was selected as a Driver in the year 1998 through the selection committee.

The petitioner contends that he fell sick and could not attend his duties from 18.02.2002 for a period of one month and he informed the same to the Depot authorities. He was issued show cause notice dated 21.02.2000, for which he gave explanation. Subsequently, when he reported to duty, he was informed that his name was deleted from the selection list. The2nd respondent passed an order on 26.03.2002 deleting the name of the petitioner from the approved list of selected candidates. Hence the present writ petition is filed.

It is not in dispute that the petitioner was selected on the basis of regular selection. His services were being utilized as casual Drivers as and when required. The petitioner contends that due to sickness he could not attend his duties and later came to know that his name was deleted from the list of selected candidates.

Under the similar circumstances, a Division Bench of this Court gave a judgment on 29.08.2003 in Writ Appeal No.1259 of 2003, upholding the order of the learned single Judge who held that it is not permissible for the Corporation to remove the name of the workman from the selected list, when the selection was made through a regularly constituted board. In the present case also, if the Corporation comes to a conclusion that non-reporting to duty amounts to dereliction

of duty, the Corporation is at liberty to initiate action against the petitioner and after a detailed inquiry, may pass appropriate orders according to Rules, but, without giving any opportunity, removing the name of the petitioner from the list of selected candidates is against the principles of natural justice. The action of the 2nd respondent in removing the name of the petitioner from the list of selected candidates is arbitrary. Therefore, such action is liable to be corrected by directing the respondents to restore the name of the petitioner to the selection list.

In the light of the above circumstances, the action of the respondents in deleting the name of the petitioner from the list of selected candidates is quashed. The respondents are directed to restore the name of the petitioner into the list of selected candidates and continue to engage him as he used to be engaged previously till an action, if any to be taken by the respondents for the absence of the petitioner and the punishment, if any, going to be imposed.

With the above said observations, the Writ Petition is allowed. No order as to costs.

Dated: 26.04.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager, APSRTC,

Kurnool Region, Kurnool District

2. The Depot Manager, APSRTC,

Pathikonda Bus Depot, Kurnool District

3. Two CD copies

*Form-NIC-OGS/WP{**MPL**}*